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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

ALEXANDRA NICOLE SPENCER

Plaintiff,

vs.

SERGIO LOPEZ, DBA SERGIO LOPEZ  
TRUCKING, and MARCOS ANTONIO  
VALLEJO-FLORES,

Defendants.

**Case No.:**

**COMPLAINT**

Personal Injury Action (28 U.S.C. §1332)

**DEMAND FOR JURY TRIAL**

Plaintiff alleges:

**JURISDICTION AND VENUE**

**1.**

Plaintiff Alexandra Nicole Spencer is a United States of America citizen, who resides in the State of Oregon.

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**2.**

At all times material to this complaint, Defendant Sergio Lopez, dba Sergio Lopez Trucking, operated a freight trucking company with his principal place of business, physical and mailing addresses in California.

At all material times herein, Defendant Marcos Antonio Vallejo-Flores was a resident of California.

**3.**

The cause of action underlying this litigation arose in Deschutes County, in the State of Oregon. Venue is therefore appropriate pursuant to 28 U.S.C § 1391(b)(2).

**4.**

This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 because the dispute is between citizens of a foreign state and a citizen of Oregon and the matter in controversy exceeds the value of \$75,000.00, exclusive of interest and costs.

**BACKGROUND FACTS**

**5.**

On Wednesday, May 10, 2017, Plaintiff was lawfully driving northbound on Old Bend Redmond Hwy in Deschutes County, Oregon.

**6.**

At approximately noon, a tractor/semi-trailer rig placed in service and controlled by Defendant Sergio Lopez, was being driven by Defendant Marcos Antonio Vallejo-Flores heading east on Tumalo Rd. Defendant Marcos Antonio Vallejo-Flores disregarded a stop sign and collided with Plaintiff's car causing injuries and damages as set fourth below. At all material times herein, Defendant Marcos Antonio Vallejo-Flores was an employee and/or actual agent of

Defendant Sergio Lopez, who was acting in the course and scope of his employment and/or agency while driving the tractor/semi-trailer rig placed in service and under the control of the carrier, Sergio Lopez.

### **DAMAGES**

#### **7.**

As a result of the collision, Plaintiff suffered injuries and had to be transported to St. Charles Medical Center in Bend, Oregon via ambulance. At St. Charles Medical Center, the initial diagnosis included concussion, right clavicle fracture, and lacerations to the left hand and legs. Following initial hospital presentation, Plaintiff came under the care of multiple medical providers with additional injury and health issues identified and treated.

### **ECONOMIC DAMAGES**

#### **8.**

Plaintiff has incurred economic damages for health care costs, lost wages, potential impaired earning capacity, and loss of student-athletic financial aid in an amount to be proven at trial. Plaintiff Alexandra N. Spencer's physical injuries will require continued care, which will cause her further economic damages in an amount to be proven at trial.

### **NON-ECONOMIC DAMAGES**

#### **9.**

As a further result of her injuries and related medical conditions, Plaintiff has experienced other harms and losses, including, pain and suffering, limitation of activities, impairment in the quality of her life, and permanent injury, all to her non-economic damage in an amount to be proven at trial. Plaintiff provides notice that she may move to amend her Complaint in the future with respect to her non-economic damages.

**10.**

Plaintiff's economic and non-economic damages combined exceed \$75,000.00.

**CLAIMS FOR RELIEF**

*Negligence*  
*(Respondeat Superior)*

**11.**

Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1-10 herein.

**12.**

At the time and place of the collision described above, Defendants were negligent in one or more of the following ways that caused the collision, Plaintiff's injuries, and damages:

- a) In failing to maintain a reasonable lookout;
- b) Driving at a speed that was excessive under the existing circumstances;
- c) Disregarding a traffic control device;
- d) Failing to yield the right of way;
- e) Operating the tractor/semi-trailer rig without required rest; and
- f) Operating the tractor/semi-trailer rig in a dangerous and defective condition due to a flat tire or exposed fabric, defective automatic airbrake adjustment system, and brakes out of service.

**13.**

It was reasonably foreseeable that the negligence as set forth above would cause the collision and Plaintiff to suffer injuries and damages alleged herein.

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**14.**

As a direct, significant, and proximate cause of Defendants' negligence, the collision occurred and Plaintiff suffered the injuries and damages alleged herein.

**PUNITIVE DAMAGES**

**15.**

Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1-14 herein.

**16.**

Defendant Sergio Lopez, acting by and through his employee/agent Defendant Marcos Antonio Vallejo-Flores in his capacity as Defendant Sergio Lopez's driver, and in knowingly placing a dangerous and defective truck on a public road, exhibited a conscious, reckless and outrageous indifference to a highly unreasonable risk of harm to members of the public, including Plaintiff.

Defendant Marcos Antonio Vallejo-Flores exhibited a conscious, reckless, and outrageous indifference to the health, safety, and welfare of the public, including Plaintiff, who was legally driving on a public road, by recklessly driving the tractor/semi-trailer rig, falsifying his driver logs, not having the required rest, and knowingly operating a dangerous and defective truck on a public road. As a result of his conscious, reckless, and outrageous indifference to Plaintiff and nearby property owner, Defendant Marcos Antonio Vallejo-Flores was charged with and convicted by a Deschutes County, State of Oregon jury of:

1. Assault in the Fourth Degree;
2. Reckless Driving; and
3. Recklessly Endangering Another Person.

**17.**

An investigation following the collision revealed that Defendant Marcos Antonio Vallejo-Flores falsified his driving logs prior to the collision and had not received the required rest prior to the collision. In addition, Defendant Sergio Lopez's tractor/semi-trailer rig was in a dangerous and defective condition at the time of the collision.

**18.**

Plaintiff is entitled to punitive damages against Defendants in the amount proven at trial.

**DEMAND FOR JURY TRIAL**

**19.**

Plaintiff hereby demands trial by jury of all issues so triable that are alleged herein or which hereinafter may be raised in this action.

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**PRAYER**

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

1. For Plaintiff Alexandra N. Spencer's economic damages in an amount to be proven at trial;
2. For Plaintiff Alexandra N. Spencer's non-economic damages in an amount to be proven at trial;
3. For combined economic and non-economic damages in excess of \$75,000.00;
4. For punitive damages in an amount to be proven at trial;
5. For Plaintiff's costs and disbursements incurred herein; and
6. For any other relief the Court deems just and proper.

DATED this 9<sup>th</sup> day of May, 2019

**CASE & DUSTERHOFF, LLP**

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